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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,813	04/20/2004	Rolf Bruck	E-80502	7276
24131	7590	03/28/2005	EXAMINER	
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			PHAM, MINH CHAU THI	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/828,813

Applicant(s)

BRUCK ET AL.

Examiner

Minh-Chau T. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 25-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/20/04</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

Claims 25-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claims, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on January 3, 2005.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the European Patent (EP 0134002A1), in view of Smith et al (4,256,700).

The European reference discloses a heat resistant filter layer for a diesel exhaust filter comprising a material (3) being at least partially pervious to a fluid (see Abstract),

at least one filter section (111) of heat and corrosion resistant material metal (see Abstract), and the layers being stacked to form a gas-permeable packet wherein the layers are connected to one another by brazing or welding in at least one connecting section (see 19 in Fig. 9). Claims 1-24 differ from the disclosure of the European reference in that the boundary region having a first layer thickness being different than a second layer thickness of the filter section. Smith et al disclose a filter for catalytic converter having a filter sections (10, 12), a boundary region (58) extending from the filter section wherein the boundary region has a first layer thickness (see 32 in Fig. 5) is different (or from Fig. 5, is less than) from the second layer thickness (see 33 in Fig. 5), and the thickness has a variety of dimensions (see col. 3, lines 64-68, col. 4, lines 18-19, col. 4, lines 58-64, col. 5, lines 9-44). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a filter with the boundary region in different thickness as taught by Smith et al in the apparatus of the European reference to provide a seal accommodating space so as to prevent fracturing of the filter material while allowing sufficient expansion of the filter housing with heat.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Jalbing (4,238,456) disclose a catalytic converter.
- Meineken et al (4,279,326) disclose an exhaust muffler.
- Gerber et al (4,475,623) disclose a universal muffler assembly.

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- Hood (4,559,205) discloses a catalytic converter substrate assembly.
- Sager, Jr. (5,482,681) discloses a catalytic converter for motor vehicles.
- Okabe et al (5,567,395) disclose a catalytic carrier for a catalytic converter.
- Takahashi et al (6,057,263) disclose a metallic catalyst carrier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Minh-Chau Pham**  
**Patent Examiner**  
**Art Unit : 1724**  
**March 21, 2005**